

**REGIONAL TRIBAL OPERATIONS COMMITTEE MEETING  
U.S. EPA REGION 5  
JUNE 03, 2003**

**Meeting Participants:**

Steve Rothblatt, EPA, ARD

Lisa C. Farmby-Fleet, EPA, IEO

Jodi Traub, EPA, WD

Bill Dew, EPA, IEO

Tom Skinner, EPA Regional Administrator

Douglas Craven, Little Traverse Bay Band

Ferdinand Martineau, Fond du Lac Reservation

Marty Holtgren, Little River Band of Ottawa  
of Ottawa

Stephanie Ogren, Little River Band of Ottawa

Jim Dunning, Ho-Chunk Nation

Jennifer Manville, EPA, IEO

Kenneth McBride, Red Lake Chippewa

Jeff Mears, Oneida Tribe

Al Fenedick, EPA, IEO

Stan Ellison, Shakopee Mdewakanton Sioux

Edward Fairbanks, EPA, IEO

Don deBlasio, EPA, OPA

George King, Red Lake Nation

David Ullrich, EPA, ORA/ORC

Gary Gulezian, EPA, GLNPO

Larry Wawronowicz, Lac du Flambeau

Mark Parrish, Pokagon Potawatomi

Willie Harris, EPA, WPTD

Barry DeGraff, EPA, WD

Margaret Guerriero, EPA, SF

Robert Hardenburgh, Little River Band

Dallas Ross, Lower Sioux

David Jones, Huron Potawatomi

Darin Steen, Bois Forte

Steve Dodge, EPA, IEO

Christine Berini, Fond du Lac Reservation

Julius Thunder, Red Lake Nation

Darrell G. Seki, Red Lake Nation

Allen D. Pemberton, Red Lake Nation

David Conner, Red Lake Nation

**Dialogue with Administrator Whitman**

Prairie Island Indian Community President Audrey Bennett introduced U.S. EPA Administrator Christie Whitman to the RTOC. Whitman presented a ceremonial check in the amount of \$600,000 to Bob Hardenburgh, Director of the Little River Band of Ottawa Indians Natural Resource Department, to recognize the Band's successful application for funds under U.S. EPA's Watershed Initiative. The funds will be used for projects to restore the Manistee River watershed in northern lower Michigan. On behalf of the Little River Band, Hardenburgh presented Whitman with a Little River Band tribal flag.

Chairman King thanked Whitman for attending the RTOC meeting. King stated that the Agency has helped tribes to develop their environmental programs, and hoped that U.S. EPA would continue. A set of written remarks was presented to Whitman.

Chairman Gary Donald of the Bois Forte Reservation, also thanked Whitman for attending the RTOC meeting and presented written remarks. Donald commended Whitman for her service as Administrator and asked her to share the following concerns with the leadership in Washington, D.C. Funding and technical assistance for tribes should be protected during budget cuts to the Agency. The tribal environmental agreement (TEA) process should be maintained and used in the planning and budgeting process. Financial resources should be redirected into direct implementation tribal cooperative agreements (DITCAs).

Bennett thanked Whitman for visiting the Prairie Island Indian Community. Whitman was asked to emphasize to President Bush the importance of consultation with tribes, and to consider drafting a presidential order recognizing tribal sovereignty. Bennett stated that tribes should be included in homeland security issues.

Craven thanked Whitman for participating in the RTOC meeting. Craven indicated that while the General Assistance Program (GAP) has been valuable for building tribal environmental capacity, tribes are now moving into the program implementation stage. A new interpretation of the GAP is needed to allow funding for implementation activities. Craven also emphasized that direct implementation of federal statutes in Indian Country is important. U.S. EPA should evaluate other federal agency approaches to program implementation (for example Bureau of Indian Affairs 638).

Whitman thanked the tribal chairs for attending the RTOC and mentioned that while she has met with the National Tribal Operations Committee (NTOC), this was her first opportunity to meet at a regional level. During her tenure with U.S. EPA she has attempted to integrate tribes into the Agency's planning and budgeting process, and has placed a high priority on the relationship with the tribes. Whitman agreed to take these issues and suggestions back to Headquarters.

Skinner suggested that Deputy Administrator Linda Fisher be invited to a future meeting of the RTOC to report on follow-up to the issues raised today.

#### **RTOC Administrative Business and Updates**

Dew reported that the minutes from the RTOC meeting of March 5, 2003, were included in the meeting packet. No corrections/additions were requested and the meeting minutes were considered approved.

Dew indicated that an updated RTOC Tracking Matrix was included in the meeting packet. Rothblatt provided some additional information on item #6 concerning tribal participation in the Central States Regional Air Planning Association (CenRAP). The CenRAP issue is a success story B after much effort tribes now have representation in the organization. In addition, there will be a new director of CenRAP. Region 5 has recently increased its participation in the organization. Ullrich also provided additional information for the RTOC Tracking Matrix. Under item #4 concerning alternatives to inter-jurisdictional conflicts, discussion has occurred with the Michigan tribes and Region 5 is moving forward to schedule dialogue with the tribes in Minnesota and Wisconsin. Under item #5 concerning re-interpretation of the use of the GAP, the Office of Regional Counsel is beginning to draft an issue paper which should be submitted to Skinner in a month.

Craven reported that he is working on finalizing the representation from the tribes in Michigan to the NTOC. Wawronowicz will be rotating off the NTOC in July 2003 and a representative of Minnesota will need to be selected. Wawronowicz stated that

the NTOC has only met twice in the last 6 months. A subcommittee was formed to create a tribal budget for the Agency. A draft was provided to the RTOC Tribal Caucus. Data from the TEAs was used to draft the tribal budget request. Craven recognized the work and contribution of Wawronowicz over the years on the NTOC.

Manville indicated that the notes from the Federal Multi-Agency MOU Work Group meeting on May 7, 2003, were included in the meeting packet. There were two primary issues discussed at the meeting: (1) compliance with the Asbestos Hazard Emergency Response Act in tribal schools and (2) federal and tribal relationships in homeland security. The next meeting is tentatively scheduled for August 6, 2003, in Minneapolis, Minnesota.

Craven provided some announcements from the RTOC Tribal Caucus. The new RTOC representative for Michigan is Mark Parrish. Today is the last meeting that Craven will be serving as RTOC Co-Chair. Martineau has been selected as the new RTOC Co-Chair. Minnesota will now be rotating into one of the Region 5 positions on the NTOC. At the September RTOC meeting, the Tribal Caucus needs to select a new representative to the Tribal Science Council. John Persell has been serving a one-year interim term. Craven requested that nominations be sent to the Region 5 Indian Environmental Office by August 1, 2003, and then provided to the Tribal Caucus for review and selection at the September meeting.

#### **Direct Implementation Tribal Cooperative Agreements (DITCAs)**

DITCAs allow tribal staff to assist the Agency to fulfill its direct implementation responsibilities in Indian Country. Ullrich reported that Region 5 is moving forward on arranging for tribal staff training, developing language for memorandums of understanding between tribes and the Agency, and obtaining additional guidance from Headquarters. However, funding is still an issue. The Office of Enforcement Compliance and Assurance may have enforcement funds that could be used for DITCAs.

Dodge stated that DITCA authority is provided in the Agency's appropriation language and is only valid for one year. (This means we can award DITCAs only until September 30, 2003, with implementation that extends past that date.) Permanent authority with funding attached is needed."

Rothblatt reported that the Air and Radiation Division is funding a DITCA with the Oneida Tribe, however, there is no dedicated funding source in the Division.

Traub stated that Direct Implementation work cannot be carried out under Clean Water Act Section 106 grants. It is possible that 106 grant funds can be reclassified so that they then could be used for DITCAs. However, to-date Region 5 and the Tribes have not planned to do this, because it would have the effect of shifting grants funds that could be used for Tribal programs so that the funds instead support Federal Direct Implementation activities. During the meeting there was feedback from some Tribes that EPA should not rule out the possibility of using some Section 106 funds for DITCAs. In follow-up to these RTOC discussions, Water Division has committed it will develop some options for the possible utilization of 106 grant funds for DITCAs, and will discuss the options with Tribal water resources staff during upcoming conference calls. An update on this will be provided during the September

RTOC meeting.

Harris reported that on June 5, 2003, there will be a meeting with the Oneida Tribe to discuss including lead (Pb) enforcement in its DITCA.

Dodge advocated that the Agency continue to evaluate direct implementation needs for each reservation to determine when it might be more cost-effective for tribes to assist with direct implementation. Wawronowicz suggested that compliance with federal storm water control requirements might be a good example. Fairbanks echoed Wawronowicz's suggestion and announced that Region 5 and the Mille Lacs Band will be sponsoring a storm water control workshop on June 16, 2003. Traub stated that there may be a new approach possible for storm water control enforcement that relies on Acitations®. Region 5 might be able to pilot that approach. Traub will follow-up on the Acitation® approach and report out at the September RTOC meeting.

Region 5 will identify potential funding opportunities for DITCAs across the media divisions/programs and report out at the September RTOC meeting.

### **Tribal Environmental Agreements (TEAs)**

Fenedick provided a report on the status of the TEA process in FY-03. Within a week, the Indian Environmental Office will be sending out to each tribe the current TEA on file and a copy of the revised TEA format. The revised format is designed to be less cumbersome and generate more useful information for the budget process (for example, separation of tribal base programs from other environmental priorities).

Wawronowicz emphasized that the TEAs have been helpful in pushing budget requests at the national level. It is important that tribal needs are identified in the TEAs, and tribal staff should take the process seriously.

Ullrich mentioned that in the future we should consider doing the TEAs on a two year cycle rather than on an annual basis.

DeGraff explained that in the past the national program managers (NPMs) have driven the budget process. The Office of the Chief Financial Officer (OCFO) is attempting to change the budget process by creating regional plans that would be used in the development of the Fiscal Year 2005 budget. This approach would provide more input by the Regions, states, and tribes. The regional plans correspond to the 5-goal Agency architecture. Later in the summer (July 31, 2003) the information generated during the TEA process could be incorporated into the regional plan.

Craven stated that the TEAs should not be used to limit the scope of Agency assistance to the tribes.

Harris reported that the Waste, Pesticides and Toxics Division (WPTD) review the TEAs and then incorporate tribal priorities (as much as possible) into the Beginning of Year Plan (BYP), which is sent to the national program in Headquarters. This BYP shows the WPTD focus for the Fiscal Year.

The Air and Radiation Division uses the TEAs to set a general road map for working with the tribes. Tribal-specific one-page strategies are drafted that outline issues/activities for the coming year. Rothblatt would be interested in tribal feedback on this approach.

Fairbanks asked how the Region 5 programs use the numbers in the TEAs when discussing national budgets with national program managers in Headquarters. DeGraff provided a brief overview on how the U.S. EPA national budget process currently works. For each of the Agency programs, one of the 10 Regions is designated as the lead. The lead Region is responsible for working with Headquarters to determine budget numbers. The process is only as effective as the lead Region is, and it is important to have a good relationship with the lead Region for your program.

With the development of regional plans this year, the budget role of the NPMs will be somewhat constrained. Headquarters has directed the NPMs to consider the regional plans during the budget development process. Region 5 Divisions need to ensure that: (1) numbers from TEAs are submitted to the lead Region for their program, and (2) they participate in the development of regional plans. DeGraff recommended that tribal-specific language be included in each relevant sub-objective.

### **Potential Budget Cuts at U.S. EPA**

Ellison stated that in order for tribes to keep programs running, they will need to be able to plan in advance for potential budget decreases. Skinner requested that this issue be placed on the agenda of the upcoming RTOC meetings (update on budget process and any available information on forecasted cuts). At the December meeting, the RTOC will focus on tribal priorities for FY-06 (summarize TEA data and distribute for discussion at the meeting). DeGraff will provide a road map for the meeting.

### **Open Forum**

Berini stated that training may be available for tribal staff to pursue federal inspector credentials, however there is no funding available. Manville indicated that one option for training funds is the GAP.

Skinner thanked Craven for his service as RTOC Co-Chair.

### **Next Meeting**

***The next meeting of the RTOC is scheduled for September 3, 2003, and will be hosted by the tribes in Wisconsin.***